IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE M.H.S. ANSARI
AND
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 2975 of 2005

Between:
K.Naga Raju, S/o.K.Rama Swamy,
R/o.27-2-1486, Steel factory Street,
Balajinagar, Nellore-5, Nellore District.

..... PETITIONER

AND

1 Deputy Transport Commissioner & Secretary, Regional Transport Authority, Nellore, Nellore District.
2 Motor Vehicle Inspector, Nellore.Nellore District.
3 Station House officer, Kovur, P.S., Kovur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of Mandamus, declaring the action of the respondents in seizing and detaining the petitioner's Motor cycle (Hero Honda) bearing Registration No.TN 07 S.0732, Pursuant to the vehicle Check Report no.44772, dated 24-01-2004 of the 2nd respondent as illegal, arbitrary and contrary to law and consequently direct the respondents herein to release the said vehicle to the petitioner, forthwith and pass such other or further orders as are necessary.

Counsel for the Petitioner:MR.V.NARASIMHA REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR TRANSPORT

The Court at the admission stage made the following :

ORDER: (Per TCSR,J)

Under the vehicle check report dated 24.01.2004, the vehicle of the petitioner, namely, Motor Cycle (Hero Honda) bearing registration No.TN.07.S.0732 was seized with the objections mentioned *inter alia* in the check report. The petitioner filed his representation on 04.02.2005 before the first respondent requesting for release of the vehicle. The same having not been considered, according to the petitioner, he approaches this Court by means of the present writ petition.

The learned Government Pleader for Transport represents that the vehicle was registered with the authorities in the State of Tamil Nadu and life tax was paid only in the State of Tamil Nadu and that, therefore, the differential tax is got to be paid on the vehicle when it is being plied in the State of Andhra Pradesh. Yet another objection sought to be raised is that the original R.C. Book of the vehicle has not been produced before the authorities. In that view of the matter, it is not advisable to release the vehicle in which event the vehicle would not have been in the State of Andhra Pradesh henceforth.

Following the *indicia* laid down by this Court in SALEEM TOURS AND TRAVELS V. JOINT TRANSPORT COMMISSIONER[1], it is appropriate to direct the release of the vehicle since it is not advisable for the authorities to keep the vehicle in custody pending consideration of the representation made, if any, by the owner of the vehicle for more than three days.

We are, therefore, of the considered view that appropriate orders shall have to be made for the release of the vehicle keeping in view the apprehension of the authorities put forth before us by the learned Government Pleader for Transport.

Under the circumstances, it is appropriate to direct the authorities to release the vehicle on the condition of the petitioner paying an amount of Rs.5,000/- (Rupees five thousand) representing the differential tax besides furnishing an undertaking that he shall not alienate the vehicle or otherwise transfer or dispose of the vehicle in any manner pending consideration of his representation made before the authorities and pending enquiry under the provisions of the Motor Vehicles Act/Taxation Act.

The writ petition is, therefore, disposed of accordingly at the threshold with the said observation. But, under the circumstances, no order as to costs.

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M.H.S.ANSARI, J.

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T.CH.SURYA RAO, J.

22ND FEBRUARY, 2005.

Note:
Issue Order on priority basis.
B/O
VGSR

To

1) Deputy Transport Commissioner & Secretary, Regional Transport
Authority, Nellore, Nellore District.
2) Motor Vehicle Inspector, Nellore.Nellore District.
3) Station House officer, Kovur, P.S., Kovur, Nellore District.
4) 1 CC to G.P. for Transport, High Court Buildings, Hyderabad (OUT).
5) 2 CD copies.
6) 1 CC to Mr.V.Narasimha Reddy, Advocate (OPUC).

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[1] 2000 (4) ALT 468 (DB)